

State of New Mexico
ENVIRONMENTAL IMPROVEMENT BOARD
Harold Runnels Building, N-2150
1190 St. Francis Drive, P. O. Box 5469
Santa Fe, New Mexico 87502

MINUTES
Environmental Improvement Board Meeting
August 6, 2012 9:00 a.m.
Room 307, State Capitol Building
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

Members Present: Deborah Peacock, Chair
Elizabeth Ryan, Secretary
Greg Fulfer, Member
James Casciano, Member
John Volkerding, Vice-Chair

Members Absent: Timothy Morrow, Member

Others Present: Mark Reynolds, Board Counsel
Felicia Orth, Hearing Officer and Acting Administrator
Sally Worthington, NMED Hearing Clerk
Cheryl Arreguin, Court Reporter
Others—See attached sign-in sheets

Item 1. Roll Call

Roll was called; a quorum was present.

Item 2. How Notice Requirements Were Met

Ms. Orth described how notice requirements were met for the meeting consistent with the Board's Open Meetings Act Resolution.

Item 3. Approval of Agenda

Action: Ms. Ryan moved to amend the agenda to remove Item #8 and postpone it until another time, considering the anticipated length of the liquid waste rules hearing. Mr. Fulfer seconded the motion. The motion passed unanimously.

Item 4. Public Comment Unrelated to Agenda Items.

Action: None.

Item 5. Approval of meeting minutes, July 7, 2012.

Action: Mr. Casciano moved Board approval of the meeting minutes as presented. Ms. Ryan seconded the motion. The motion passed unanimously.

Item 6. Request for hearing in EIB 12-03 (R), Proposed Revisions to 20.2.99 NMAC- Conformity to the State Implementation Plan of Transportation Plans, Programs and Projects. Bill Grantham, NMED/OGC; Gail Cooke, NMED/AQB.

Mr. Grantham introduced Gail Cooke from the Air Quality Bureau to request a hearing regarding Proposed Revisions to 20.2.99 NMAC – Conformity to the State Implementation Plan of Transportation Plans, Programs and Projects. Ms. Cooke requested a hearing on January 7, 2013 and estimated that the hearing would take less than an hour.

Action: Mr. Casciano moved to grant the hearing on January 7, 2013 and Ms. Ryan seconded. Mr. Volkerding will be the Hearing Officer. The motion passed unanimously.

Item 7. Request for hearing in EIB 12-04 (R), Proposed Revisions to the Infrastructure State Implementation Plan for the Nitrogen Dioxide National Ambient Air Quality Standard. Bill Grantham, NMED/OGC; Michael Baca, NMED/AQB.

Mr. Grantham stated that this is another request for a hearing for air quality rulemaking in connection with the January 2013 meeting. He introduced Michael Baca from the Air Quality Bureau to answer questions. This hearing also should not take more than one hour.

Action: Ms. Ryan moved to grant the hearing on January 7, 2013 and Mr. Casciano seconded. Mr. Volkerding will be the Hearing Officer. The motion passed unanimously.

Item 8. Briefing on Liquid Waste Assistance for Indigent Households. Dennis McQuillan, NMED/LWP; Ralph Baker Dotson, POWRA and Jace Ensor, NMOWA.

Action: Postponed until a later date.

Item 9. Hearing and possible deliberations in EIB 12-01 (R), to Consider Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.3 NMAC. Andrew Knight, NMED/OGC; Dennis McQuillan, NMED/LWP; Ralph Baker Dotson and Eugene Bassett, POWRA; Carl Stubbs and Jace Ensor, NMOWA; Susan C. Kery, Sheehan & Sheehan, and Dennis F. Hallahan for Infiltrator Systems, Inc. Felicia Orth, Hearing Officer.

Action: The hearing in EIB 12-01 (R) was recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator.

The hearing ended at 4:20 p.m. and will be continued at the next meeting, August 13, 2012.

Item 10. Update on:

Martinez et al. v. EPA 10th Cir. COURT OF APPEALS 11-9567 and associated cases and administrative actions

Petitioners: Susana Martinez
New Mexico Environment Department

Respondent: U.S. Environmental Protection Agency

Intervenors: WildEarth Guardians
Public Service Company of New Mexico
Dine Citizens Against Ruining Our Environment
National Parks Conservation Association
New Energy Economy
San Juan Citizens Alliance
Sierra Club

Mark Reynolds, NMAGO, and Ryan Flynn, NMED/OGC.

Action: Postponed until a later date.

Item 11. **Executive session to discuss pending litigation. Mark Reynolds, NMAGO**

a. City of Farmington and Farmington Electric Utility System v. N.M. Environmental Improvement Board COURT OF APPEALS No. 30,897
Appeal of EIB 10-04(R): Cap and Trade Provisions.

N.M. Oil and Gas Association v. N.M. Environmental Improvement Board COURT OF APPEALS No. 30,898
Appeal of EIB 10-04(R): Cap and Trade Provisions.

<p>Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,899 Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>Southwestern Public Service Company v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,901 Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>Public Service Co. Of N.M. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,902 Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,907 Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>El Paso Electric Co. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,908 Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>b. Western Resource Advocates, and New Energy Economy v. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 32,056 Appeal of EIB 11-15(R): Repeal of Rule 3550, Greenhouse Gas Cap-and- Trade Provisions</p>

- | | | |
|----|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Western Resource
Advocates, and
New Energy
Economy v.
Environmental
Improvement
Board | COURT OF APPEALS No. 32,055

Appeal of EIB 11-17(R): Repeal of
Rules 300 and 301, Greenhouse Gas
Emissions Reporting and Verification
Requirements |
| c. | N.M. Oil & Gas
Ass'n. et al. v.
N.M.
Environmental
Improvement
Board | COURT OF APPEALS No. 30,952

Appeal of EIB 10-09(R): Greenhouse
Gas Reporting |
| | Tri-State
Generation and
Transmission
Association, Inc. v.
N.M.
Environmental
Improvement
Board | COURT OF APPEALS No. 30,953

Appeal of EIB 10-09(R): Greenhouse
Gas Reporting |
| | Independent
Petroleum
Association of
N.M. v. N.M.
Environmental
Improvement
Board | COURT OF APPEALS No. 30,954

Appeal of EIB 10-09(R): Greenhouse
Gas Reporting |
| d. | City of Farmington
and Farmington
Electric Utility
System v. N.M.
Environmental
Improvement
Board | COURT OF APPEALS No. 31,015

Appeal of EIB 08-19(R): New Energy
Economy |
| | Independent
Petroleum
Association of
N.M. v. N.M.
Environmental
Improvement
Board | COURT OF APPEALS No. 31,016

Appeal of EIB 08-19(R): New Energy
Economy |

	N.M. Oil & Gas Ass'n, et al. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,017 Appeal of EIB 08-19(R): New Energy Economy
	El Paso Electric Co. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,018 Appeal of EIB 08-19(R): New Energy Economy
	Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,019 Appeal of EIB 08-19(R): New Energy Economy
	Public Service Co. Of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,020 Appeal of EIB 08-19(R): New Energy Economy
	Southwestern Public Service Company v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,021 Appeal of EIB 08-19(R): New Energy Economy
e.	Western Resource Advocates and New Energy Economy v. Environmental Improvement Board	COURT OF APPEALS No. 32,177 Appeal of EIB 11-16 (R), repeal of Part 100, Greenhouse Gas Emissions Cap
f.	Link Summers v. Environmental Improvement Board v. New Mexico Environment Department	COURT OF APPEALS No. 31,774 Appeal re EIB 11-08 (R)

Action: Mr. Volkerding moved to enter into executive session to discuss Items 8.a. through 8.f. Mr. Fulfer seconded the motion. The motion was approved unanimously in a roll call vote. The Board went back on the record at 4:08 p.m. The Board took no action during the Executive Session and discussed no other matters.

Item 12. Other business.

Action: The next meeting on the 13th of August will be a hearing in **EIB 12-02**, Appeal of Denial of Relocation Application by KI-Stone Environmental and Ms. Ryan will be the Hearing Officer. Also the hearing in **EIB 12-01** will continue with Ms. Orth as Hearing Officer.

Item 13. Board Member Comments and Questions.

Action: None.

Item 14. Next two meetings –

August 13, 2012, including hearing in EIB 12-02; and

September 4, 2012, including deliberations in EIB 11-18 (R).

Meetings scheduled during the remainder of 2012:

Action: Meetings will not be held on the first Monday in October or November; these meetings will be replaced with a meeting on October 29-30, 2012. The December meeting will be held December 3, 2012.

Item 15. Adjournment.

Ms. Peacock adjourned the meeting at approximately 4:40 p.m.


Board Secretary